

[21 August, 2000]

RAJYA SABHA

(b) the reasons for not getting the connections by the persons registered for LPG connections in the State; and

(c) the time likely to be taken to clear the waiting list?

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND NATURAL GAS (SHRI E. PONNUSWAMY): (a) to (c) The total number of waiting list registered for LPG connections with the LPG distributors of Public Sector Oil Marketing Companies in the State of Bihar as on 1.12.1999 was about 4.82 lakhs and the same will be liquidated by the end of year 2000.

Constitutional provision for reservation to SCs/STs in recruitment and promotion

3043. DR. (Ms.) P. SELVIE DAS:

SHRI GANDHI AZAD:

Will the Minister of SOCIAL JUSTICE AND EMPOWERMENT be pleased to state:

(a) whether there is any special provision in the Constitution for SCs/STs providing reservations in recruitment and promotions in services and posts;

(b) if so, the details thereof;

(c) whether it is a fact that seniority of SCs/STs from the date of promotion to next grade/post in accordance with the normal rule of seniority is denied in view of the Supreme Court's Judgement in R.K. Sabharwal case;

(d) if so, the steps taken to safeguard the interests of SCs/STs in this regard; and

(e) whether Government are considering to take up this case for review in Supreme Court?

THE MINISTER OF STATE OF THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (SHRIMATI MANEKA GANDHI): (a) Yes, Sir.

(b) Article 16(4) of the Constitution "empowers the State to make any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State." Article 16 (4A) of the Constitution "empowers the State to make any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and Scheduled Tribes which in the opinion of the States, are not adequately represented in the services under the State".

(c) and (d) In R.K. Sabharwal's case the Supreme Court has held that reservation of jobs should be related to posts and not to vacancies. In the cases of Virpal Singh Chauhan and Ajit Singh No. I, the Supreme Court held that accelerated promotion due to rule of reservation/roster does not carry with it accelerated consequential seniority. Hence, as and when the senior General/OBC employee is able to catch up with the junior SC/ST employee in the immediate higher grade, the former regains his original seniority over the latter. In Ajit Singh II, the Constitution Bench of the Supreme Court declared that above case, have been correctly decided and further held that it is axiomatic in service jurisprudence that any promotions made wrongly in excess of any quota are to be treated as *ad hoc*. This applies to reservation quota as much as it applies to direct recruits and promotee cases. Thus, while promotion in excess of roster made before 10.2.1995 are protected, such promotees cannot claim seniority.

(e) The review petitions filed against the judgement of the Constitution Bench in Ajit Singh II have been dismissed on merits by the Five Judge Bench of the Supreme Court on 8.12.1999.

Abolition of practice of manual scavenging

3044. SHRI BHAGATRAM MANHAR: Will the Minister of SOCIAL JUSTICE AND EMPOWERMENT be pleased to state:

(a) whether despite the existence of National Commission for Safai Karamcharis the practice of manual scavenging is still continuing the States like Rajasthan, Gujarat, etc.;

(b) whether Government are aware of recent T.V. report (Star News) highlighting manual scavenging in Gujarat;

(c) the steps Government propose to take to abolish manual scavenging; and

(d) whether Government propose to empower NCSK with executive/legal powers for effective functioning?

THE MINISTER OF STATE OF THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (SHRIMATI MANEKA GANDHI): (a) to (c) The National Commission for Safai Karamcharis has reported about existence of manual scavenging in certain parts of the country in its reports. The National Scheme of Liberation and Rehabilitation of Scavengers and their dependents is being implemented since 1992-93 with a view to provide training to